

TAB E

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ALASKA

3 EEOC, Plaintiff,
4 and
5 SHOTSAY POSCIRI,
6 Plaintiff-Intervenor,
7 vs.
8 UNITED FREIGHT &
9 TRANSPORT, INC.,
10 Defendant.
11 Case No. A05-122 CV

12 DEPOSITION OF JANICE MANSFIELD,
13 Pages 1-120, inclusive
14 Commencing at 1:54 p.m.
15 Thursday, December 8, 2005
16 Anchorage, Alaska

17 Alaska Stenotype Reporters
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1 A-P-P-E-A-R-A-N-C-E-S

2
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Frank Monfrey

Reported By: Rosie S. Scott, Certified
Shorthand Reporter

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ALASKA

3 EEOC, Plaintiff,
4 and
5 SHOTSAY POSCIRI,
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10 Defendant.
11 Case No. A05-122 CV

12 DEPOSITION OF JANICE MANSFIELD,
13 taken on behalf of the plaintiff, pursuant to notice, at
14 the law offices of Dorsey and Whitney, 1031 West Fourth,
15 Suite 600, Anchorage, Alaska, before Rosie S. Scott,
16 Certified Shorthand Reporter for Alaska Stenotype
17 Reporters and Notary Public for the State of Alaska.

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<p>1 particular?</p> <p>2 A. No.</p> <p>3 Q. Or about Dan in particular?</p> <p>4 A. No.</p> <p>02:04PM 5 Q. Dan Tullis is who I'm speaking of?</p> <p>6 A. No, just the basic fact that Dan was according</p> <p>7 to Mr. Smith, was a better driver, and that's why he</p> <p>8 chose him over Shotsay.</p> <p>9 Q. And have you had any personal conversations</p> <p>02:04PM 10 with members of the union that are not United Freight?</p> <p>11 A. No, I have not.</p> <p>12 Q. Can you explain your work history with United</p> <p>13 Freight?</p> <p>14 A. I worked from May 1995 until November of 1998.</p> <p>02:04PM 15 I left to take another position, and came back in</p> <p>16 November of 2002.</p> <p>17 Q. And you're still employed with United Freight?</p> <p>18 A. Yes, I am.</p> <p>19 Q. And what position or positions did you hold</p> <p>02:04PM 20 with United Freight between May of 1995 and November of</p> <p>21 1998?</p> <p>22 A. I was office manager.</p> <p>23 Q. And do you still hold that position today?</p> <p>24 A. Yes, I do.</p> <p>02:05PM 25 Q. Have you held any other position within United</p> <p>Alaska Stenotype Reporters 13</p>	<p>1 hiring process for the drivers?</p> <p>2 A. Yes. It starts out with the call to the union</p> <p>3 hall telling them how many drivers we hope to hire at</p> <p>4 that particular time. The union hall sends potential</p> <p>02:06PM 5 employees. I start out with a basic interview to get</p> <p>6 their background. And if I'm satisfied with that, then I</p> <p>7 have an interview checksheet that I fill out based on</p> <p>8 what they tell me. I review their driver's record.</p> <p>9 If everything is satisfactory, then I send them</p> <p>02:07PM 10 on a road test with one of our drivers.</p> <p>11 After -- at that point, after the road test</p> <p>12 driver comes back I have the potential hiree in a</p> <p>13 different location. And I confer with the road test</p> <p>14 driver to see his opinion as to whether he felt there</p> <p>02:07PM 15 would be a potential there for a good driver for United</p> <p>16 Freight. Based upon that I either take it further and</p> <p>17 give that person the rest of the paperwork, or tell them</p> <p>18 that we won't be hiring them at this time and send them</p> <p>19 back to the hall.</p> <p>02:07PM 20 Q. You mentioned that your first step is to call</p> <p>21 the union and to request people -- request that they send</p> <p>22 some drivers over?</p> <p>23 A. Right. That's not necessarily me, but someone</p> <p>24 from the company calls.</p> <p>02:08PM 25 Q. Is it ever you?</p> <p>Alaska Stenotype Reporters 15</p>
<p>1 Freight?</p> <p>2 A. No, I have not.</p> <p>3 Q. And can you explain your duties as an office</p> <p>4 manager?</p> <p>02:05PM 5 A. I do all the accounting. I do some of the</p> <p>6 billing. I hire the office personnel and hire drivers.</p> <p>7 I do financials from accounts receivable on up to</p> <p>8 financial statements, cash flow projections, oversee the</p> <p>9 office when Mr. Monfrey is not in the office.</p> <p>02:05PM 10 Q. So quite a few responsibilities?</p> <p>11 A. Yes.</p> <p>12 Q. Is Mr. Monfrey frequently gone?</p> <p>13 A. No.</p> <p>14 Q. So you don't frequently have the opportunity to</p> <p>02:05PM 15 oversee the office?</p> <p>16 A. No.</p> <p>17 Q. You mentioned that you hire both office</p> <p>18 personnel and drivers?</p> <p>19 A. Correct.</p> <p>02:06PM 20 Q. Can you explain that?</p> <p>21 A. Office personnel we recently hired a part-time</p> <p>22 person, so I hired her. Drivers we go through the</p> <p>23 process with the union hall, and I go through the entire</p> <p>24 process, and hire or not hire that particular person.</p> <p>02:06PM 25 Q. So can you take me sort of step-by-step on the</p> <p>Alaska Stenotype Reporters 14</p>	<p>1 A. Yes, it has been in the past.</p> <p>2 Q. And who else would it be?</p> <p>3 A. Mr. Adams, our dispatcher used to call and that</p> <p>4 was changed in late 2002 to early 2003 to where either</p> <p>02:08PM 5 Frank Monfrey or myself calls.</p> <p>6 Q. So was it Dana Adams that you're speaking of?</p> <p>7 A. Yes.</p> <p>8 Q. Did you say Adams?</p> <p>9 A. Yes.</p> <p>02:08PM 10 Q. And is that Dana Adams?</p> <p>11 A. Yes.</p> <p>12 Q. So does he never call anymore?</p> <p>13 A. No, he does not.</p> <p>14 Q. So now it's only you or Mr. Monfrey?</p> <p>02:08PM 15 A. Correct.</p> <p>16 Q. And when did that change take place?</p> <p>17 A. It was late 2002 or early 2003 after this --</p> <p>18 there were two instances that came up out of Shotsay's</p> <p>19 interview, and that was one with our hiring practices and</p> <p>02:08PM 20 one was the grievance for discrimination.</p> <p>21 Q. But you made the change in 2002?</p> <p>22 A. I believe so. I'm sorry 2003. I was incorrect</p> <p>23 on that. It was late 2003. It was after Shotsay came</p> <p>24 out for her interview.</p> <p>02:09PM 25 Q. So you made the change late 2003?</p> <p>Alaska Stenotype Reporters 16</p>

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<p>1 A. Or late 2004. That was an error on my part.</p> <p>2 Q. Okay. Thanks for clarifying that. And what</p> <p>3 was the idea behind switching from Dana to the two of</p> <p>4 you?</p> <p>02:10PM 5 A. Mr. Killian felt that Mr. Monfrey should be</p> <p>6 making the calls. And Mr. Monfrey gave me that authority</p> <p>7 also, in case he is not in the office at the time.</p> <p>8 Q. But at the time of Shotsay's tests, would it</p> <p>9 have been Dana that called?</p> <p>02:10PM 10 A. Yes, it was.</p> <p>11 Q. And at that time, when you -- when Dana would</p> <p>12 call the union to request drivers, would he request --</p> <p>13 how many drivers would he request?</p> <p>14 A. Normally, he would request based on whatever</p> <p>02:10PM 15 Mr. Monfrey told him, normally one or two more than what</p> <p>16 we anticipated hiring.</p> <p>17 Q. And was that a problem for the union?</p> <p>18 A. We weren't aware that it was.</p> <p>19 Q. You weren't aware that it was then?</p> <p>02:10PM 20 A. No.</p> <p>21 Q. Are you aware that it is now?</p> <p>22 A. Yes.</p> <p>23 Q. When did you become aware that that was a</p> <p>24 problem?</p> <p>02:10PM 25 A. When they spoke to Mr. Monfrey after Shotsay</p> <p style="text-align: right;">Alaska Stenotype Reporters 17</p>	<p>1 clean driving record. If they don't have those three</p> <p>2 things, it doesn't go any further. After that it's based</p> <p>3 on the number of years experience. We request at least</p> <p>4 three. We prefer five years of tractor driving</p> <p>02:11PM 5 experience. And then after that it's based upon if they</p> <p>6 have port experience and hostler experience and how well</p> <p>7 they know the Anchorage area.</p> <p>8 Q. Do you rely heavily on the road test?</p> <p>9 A. Absolutely.</p> <p>02:12PM 10 Q. Has there ever been a time when you disagreed</p> <p>11 with the recommendation of the person administering the</p> <p>12 test?</p> <p>13 A. No.</p> <p>14 Q. Do you ask them for a recommendation?</p> <p>02:12PM 15 A. Yes, every single time.</p> <p>16 Q. Every single time. Do they tell you -- what</p> <p>17 would they tell you?</p> <p>18 A. A lot of them will say satisfactory plus. For</p> <p>19 instance, I can remember he was a great driver. He had a</p> <p>02:12PM 20 big problem backing up. That's a big part of our</p> <p>21 business, so that wasn't a very good thing to not be able</p> <p>22 to do.</p> <p>23 If they tell me they feel they have good</p> <p>24 customer service, possibly. Every driver is different,</p> <p>02:13PM 25 so I'm just trying to get some of the highlights.</p> <p style="text-align: right;">Alaska Stenotype Reporters 19</p>
<p>1 and Dan Tullis was interviewed, saying that we were</p> <p>2 requesting more drivers than we needed, and we should not</p> <p>3 be doing that.</p> <p>4 Q. And the union had not brought that up before?</p> <p>02:10PM 5 A. Not to my knowledge.</p> <p>6 Q. Okay. So in the basic interview, is that the</p> <p>7 interview checklist?</p> <p>8 A. Yes, it is.</p> <p>9 Q. And that's the basis of the driver's</p> <p>02:11PM 10 experience?</p> <p>11 A. Correct.</p> <p>12 Q. And based on that you decide if they are</p> <p>13 qualified to go ahead and continue on with the driver's</p> <p>14 test?</p> <p>02:11PM 15 A. Yes.</p> <p>16 Q. Does anybody else review the -- any of the</p> <p>17 information that the drivers come with?</p> <p>18 A. No.</p> <p>19 Q. You're the one that makes the decision?</p> <p>02:11PM 20 A. Yes.</p> <p>21 Q. What do you rely upon when you either give the</p> <p>22 driver a job or do not?</p> <p>23 A. The first top priority is whether they have the</p> <p>24 Class A CDL with Haz Mat endorsement. They have to have</p> <p>02:11PM 25 a current ICC medical card. And they have to have a</p> <p style="text-align: right;">Alaska Stenotype Reporters 18</p>	<p>1 Hooking and unhooking the trailers, if they are</p> <p>2 taking it apart, confidence doing that. Being able to</p> <p>3 get around the port, particularly. If they have not had</p> <p>4 any port experience. If they seem to have a handle on</p> <p>02:13PM 5 how it works, and the basic Anchorage knowledge of the</p> <p>6 area.</p> <p>7 Q. So when the -- after the drive test and you</p> <p>8 speak with the person who had administered the test, you</p> <p>9 mentioned that you either give them the rest of the</p> <p>02:13PM 10 paperwork or you send them away?</p> <p>11 A. Correct.</p> <p>12 Q. What is the rest of the paperwork?</p> <p>13 A. When we do the initial interview, it's normally</p> <p>14 just a three-year employment history. If it goes further</p> <p>02:14PM 15 than that, then there's a full 10-year employment history</p> <p>16 that we have to have including in the union time when</p> <p>17 they were not working.</p> <p>18 There's -- we have to send out three drug test</p> <p>19 information sheets based on the previous employers, as</p> <p>02:14PM 20 well as all employers for the past three years, driving</p> <p>21 experience. So they have to fill out their name and</p> <p>22 their approval to do that.</p> <p>23 At that point, I believe -- let's see. At that</p> <p>24 point, I believe that's all they're given.</p> <p>02:14PM 25 I then send them on a drug test and give them a</p> <p style="text-align: right;">Alaska Stenotype Reporters 20</p>

<p>1 A. Correct.</p> <p>2 Q. And he went with that?</p> <p>3 A. Correct.</p> <p>4 Q. Was there ever a time he didn't go with your</p> <p>02:24PM 5 decision?</p> <p>6 A. No.</p> <p>7 Q. At United Freight, have you ever hired a female</p> <p>8 driver?</p> <p>9 A. We called one back that had previously worked</p> <p>02:24PM 10 and was laid off.</p> <p>11 Q. And who was that?</p> <p>12 A. Her name was Pamela Gabbert.</p> <p>13 Q. And when was that?</p> <p>14 A. She initially started just before I did in May</p> <p>02:25PM 15 of 1995. She was laid off in July of '95. And then we</p> <p>16 brought her back in either October or November of '96.</p> <p>17 Q. And how long did she stay?</p> <p>18 A. I believe it was approximately 10 months.</p> <p>19 Q. 10 months?</p> <p>02:25PM 20 A. Uh-huh.</p> <p>21 Q. And why did she leave?</p> <p>22 A. She resigned.</p> <p>23 Q. Other than Ms. Gabbert, have you hired a female</p> <p>24 driver?</p> <p>02:25PM 25 A. I have not hired a female driver, no.</p> <p>Alaska Stenotype Reporters 29</p>	<p>1 Bill Smith?</p> <p>2 A. Yes, it was.</p> <p>3 Q. And he eventually was not able to work?</p> <p>4 A. Correct.</p> <p>02:27PM 5 Q. And the person who wanted to leave, who was</p> <p>6 that?</p> <p>7 A. Tom Galloway.</p> <p>8 Q. And what happened with him?</p> <p>9 A. He did resign.</p> <p>02:27PM 10 Q. Do you remember when Eric was terminated?</p> <p>11 A. I believe it was officially December, but he</p> <p>12 had been on suspension since -- no, that might not be</p> <p>13 right. It was sometime between October and December that</p> <p>14 he had been on suspension the whole time.</p> <p>02:27PM 15 Q. So did you have -- was his space open so you</p> <p>16 needed to fill his space while he was on suspension?</p> <p>17 A. We couldn't fill it until we knew the outcome</p> <p>18 of whether he would be terminated or not.</p> <p>19 Q. So you were just short a driver during that</p> <p>02:27PM 20 time?</p> <p>21 A. Correct.</p> <p>22 Q. And do you remember when Bill Smith left?</p> <p>23 A. I believe it was October.</p> <p>24 Q. And Tom?</p> <p>02:28PM 25 A. It may have been November. I'm not sure of the</p> <p>Alaska Stenotype Reporters 31</p>
<p>1 Q. On the day that Shotsay and Dan Tullis took</p> <p>2 their driving test, how many positions were open?</p> <p>3 A. It was uncertain at that time. There were a</p> <p>4 lot of variables.</p> <p>02:25PM 5 Q. What were the variables?</p> <p>6 A. We had one driver that was on suspension</p> <p>7 because he had received a DWI in his personal vehicle.</p> <p>8 We had another driver who had health issues and we were</p> <p>9 not sure that he was going to be insurable, so that was a</p> <p>02:26PM 10 potential reservation there.</p> <p>11 We had another driver that was considering</p> <p>12 leaving us to go to a position on the North Slope. And</p> <p>13 none of those were certain at that time.</p> <p>14 Q. When did you become certain about what would</p> <p>02:26PM 15 happen to those three?</p> <p>16 A. Between October and December of that year.</p> <p>17 Q. Of 2003?</p> <p>18 A. Correct.</p> <p>19 Q. And who was the person who was -- who was the</p> <p>02:26PM 20 driver who was on suspension?</p> <p>21 A. Eric Kjelland. His last name is spelled</p> <p>22 K-J-E-L-L-A-N-D.</p> <p>23 Q. And what eventually happened with Eric?</p> <p>24 A. He was terminated.</p> <p>02:27PM 25 Q. And the person with the health issues, was that</p> <p>Alaska Stenotype Reporters 30</p>	<p>1 exact date.</p> <p>2 Q. So can you sort of take me through the process</p> <p>3 of how you determined when and how many potential drivers</p> <p>4 you requested from the union on the day that Shotsay and</p> <p>02:28PM 5 Dan did their driver's test?</p> <p>6 A. I did not request any drivers at the time, that</p> <p>7 was Mr. Adams. And that was based upon however many</p> <p>8 Mr. Monfrey told him to.</p> <p>9 Q. So in the morning when Shotsay arrived, do you</p> <p>02:28PM 10 remember what time she arrived approximately?</p> <p>11 A. I believe it was before 9:00.</p> <p>12 Q. And did you see Shotsay when she arrived?</p> <p>13 A. Yes, I did.</p> <p>14 Q. And did you speak with her?</p> <p>02:28PM 15 A. Yes, I did.</p> <p>16 Q. And when she arrived, how many spots did you</p> <p>17 think were open?</p> <p>18 A. We weren't sure. There were too many things</p> <p>19 that I just told. We didn't know for sure.</p> <p>02:29PM 20 Q. So were you sure at any time during that day?</p> <p>21 A. No.</p> <p>22 Q. It wasn't until later?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. Did any of those issues -- these issues</p> <p>02:29PM 25 with Eric, with Bill Smith, or with Tom Galloway, did any</p> <p>Alaska Stenotype Reporters 32</p>

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<p>1 of those arise that day?</p> <p>2 A. No.</p> <p>3 Q. When did those issues arise?</p> <p>4 A. I don't recall.</p> <p>02:29PM 5 Q. Prior to?</p> <p>6 A. Yes.</p> <p>7 Q. Prior to the day that they came in to do their</p> <p>8 tests?</p> <p>9 A. Yes.</p> <p>02:29PM 10 Q. And had United Freight hired another driver?</p> <p>11 A. Yes, we did.</p> <p>12 Q. And who was that?</p> <p>13 A. Gary Dixon.</p> <p>14 Q. And do you remember when Gary was hired?</p> <p>02:29PM 15 A. The previous week -- late in the week.</p> <p>16 Q. And who makes the decision when -- who makes</p> <p>17 the decision to hire people, when you decide how many</p> <p>18 positions you have open, when you should start calling</p> <p>19 the union to ask for more people?</p> <p>02:30PM 20 A. Mr. Monfrey does.</p> <p>21 Q. Do you have any involvement in that?</p> <p>22 A. Not as a real -- he normally talks to either</p> <p>23 Dennis Smith our lead driver, or John Schneider our shop</p> <p>24 steward.</p> <p>02:30PM 25 Q. So he doesn't discuss it with you necessarily?</p> <p>Alaska Stenotype Reporters 33</p>	<p>1 Q. Are you the person who calls the person who</p> <p>2 will administer the test and say, we need somebody to do</p> <p>3 a test. Can you come out and do it?</p> <p>4 A. No, our dispatcher does that.</p> <p>02:32PM 5 Q. Dana?</p> <p>6 A. Yes.</p> <p>7 Q. So your job is just to hand them the checksheet</p> <p>8 and introduce them to the driver?</p> <p>9 A. Correct.</p> <p>02:32PM 10 Q. And you don't discuss with the person who is</p> <p>11 going to administer the test anything that had come up in</p> <p>12 that checksheet?</p> <p>13 A. No, I don't.</p> <p>14 Q. And then they come to you in the post test?</p> <p>02:32PM 15 A. Correct.</p> <p>16 Q. And you have a conversation?</p> <p>17 A. Correct.</p> <p>18 Q. At the time that Bill Smith was administering</p> <p>19 the test to Shotsay and to Dan, did he know -- did you</p> <p>02:33PM 20 tell him, it's unclear how many positions we're going to</p> <p>21 need?</p> <p>22 A. No. That's not their -- they don't need to</p> <p>23 know that.</p> <p>24 Q. Did he ever know that there was going to be a</p> <p>02:33PM 25 choice between Shotsay or Dan?</p> <p>Alaska Stenotype Reporters 35</p>
<p>1 A. No.</p> <p>2 Q. Did he discuss it with you during this</p> <p>3 situation?</p> <p>4 A. We had discussed the variables of the unknown.</p> <p>02:30PM 5 Q. Did you ever, at any point, discuss the fact</p> <p>6 that today we know we need one driver, or today we know</p> <p>7 we need two?</p> <p>8 A. Yes. For instance, Gary Dixon was hired</p> <p>9 because we had a driver retiring.</p> <p>02:30PM 10 Q. Somebody separate from these three people we've</p> <p>11 discussed who had retired?</p> <p>12 A. His name is Art Almon, A-L-M-O-N.</p> <p>13 Q. So when Gary Dixon was sent out, you were --</p> <p>14 United Freight was sure that you needed one position?</p> <p>02:31PM 15 A. Correct.</p> <p>16 Q. What information do you specifically provide to</p> <p>17 the person who is administering the drive test?</p> <p>18 A. I don't. I give them the forms and they</p> <p>19 already know what we're looking for, and they have the</p> <p>02:31PM 20 checklist to check off, so I don't give them specific</p> <p>21 instructions.</p> <p>22 Q. So you're not the person to tell them to go out</p> <p>23 and do the driving test?</p> <p>24 A. I tell them to, yes. I give them the form and</p> <p>02:32PM 25 say this is -- I introduce them to prospective employee.</p> <p>Alaska Stenotype Reporters 34</p>	<p>1 A. Not necessarily. He knew that he was road</p> <p>2 testing a second driver when he took Mr. Tullis out, but</p> <p>3 he did not necessarily know we were hiring one or we were</p> <p>4 hiring two.</p> <p>02:33PM 5 Q. So when Bill Smith returned from testing Dan,</p> <p>6 did you say -- who do you recommend?</p> <p>7 A. Yes, I believe I did ask that because we were</p> <p>8 uncertain of how many drivers we were going to hire.</p> <p>9 Q. So if you were uncertain how many you were</p> <p>02:33PM 10 going to hire, why did you ask?</p> <p>11 A. Just to get his recommendation as to who he</p> <p>12 would think would be a better driver for United Freight.</p> <p>13 Q. And what was Bill Smith's answer to you?</p> <p>14 A. That he felt Dan Tullis would be a better</p> <p>02:34PM 15 driver for various reasons.</p> <p>16 Q. What were the various reasons?</p> <p>17 A. He felt that Mr. Tullis was more comfortable</p> <p>18 in the truck. He had more confidence and that he was</p> <p>19 faster.</p> <p>02:34PM 20 Q. Did Mr. Smith tell you that Shotsay passed her</p> <p>21 driver's test?</p> <p>22 A. Yes.</p> <p>23 Q. Did you have a discussion with Mr. Smith after</p> <p>24 Shotsay's test, before Dan's test?</p> <p>02:34PM 25 A. No, I don't believe I did because I think he</p> <p>Alaska Stenotype Reporters 36</p>

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<p>1 was -- I don't know. I don't remember.</p> <p>2 Q. But you remember having the conversation</p> <p>3 after --</p> <p>4 A. After Mr. Tullis'.</p> <p>02:134PM 5 Q. Would it have been normal for Bill Smith to</p> <p>6 come in and talk with you directly after testing Shotsay?</p> <p>7 A. Not if I had another driver waiting.</p> <p>8 Q. Did he know in the morning that there was going</p> <p>9 to be another driver waiting?</p> <p>02:135PM 10 A. No, he did not.</p> <p>11 Q. What might have happened then? If there was</p> <p>12 another driver he didn't know it yet, you weren't ready</p> <p>13 to have the conversation yet about Shotsay's test?</p> <p>14 A. When he came back -- and I don't recall if Dan</p> <p>02:135PM 15 Tullis was waiting there or not -- but I think he may</p> <p>16 have been simply because I don't remember talking to him</p> <p>17 specifically about Shotsay, only about both of them.</p> <p>18 Q. So Bill would have walked in, and instead of</p> <p>19 having the conversation with you, he would have seen</p> <p>02:135PM 20 there was another person waiting for a test?</p> <p>21 A. Right. I would have given him the paperwork</p> <p>22 for the second road test and said, "This is Mr. Tullis.</p> <p>23 Take him out on the road test."</p> <p>24 Q. So when you spoke with Bill, after Dan's test,</p> <p>02:136PM 25 he recommended Dan?</p> <p style="text-align: right;">Alaska Stenotype Reporters 37</p>	<p>1 reviewing, was that paperwork that they completed after</p> <p>2 their tests?</p> <p>3 A. It's just the interview checksheet and the</p> <p>4 application. And I don't know if they filled it out</p> <p>02:137PM 5 before the road test or after.</p> <p>6 Q. What is your normal practice?</p> <p>7 A. It depends if I have a driver that gets back</p> <p>8 right away to go on the road test, and we just do the</p> <p>9 interview checksheet. If they have time to -- you know,</p> <p>02:137PM 10 the driver is 20 minutes away, then I'll give them the</p> <p>11 three-year application to work on while they're waiting.</p> <p>12 Q. So you're not sure which paperwork you</p> <p>13 reviewed?</p> <p>14 A. No, I'm not.</p> <p>02:137PM 15 Q. With Dan and Shotsay. When did you make a</p> <p>16 decision?</p> <p>17 A. I believe it was that afternoon.</p> <p>18 Q. Did you speak with Mr. Monfrey before making</p> <p>19 your decision?</p> <p>02:138PM 20 A. No, I did not.</p> <p>21 Q. Why did you believe you needed to make a</p> <p>22 decision if you weren't necessarily sure how many spots</p> <p>23 you had?</p> <p>24 A. I don't recall at the time. I may have had the</p> <p>02:138PM 25 impression that we were going to hire one. I honestly</p> <p style="text-align: right;">Alaska Stenotype Reporters 39</p>
<p>1 A. Correct.</p> <p>2 Q. Did he say that Shotsay had passed?</p> <p>3 A. Yes.</p> <p>4 Q. Did he recommend her for hire?</p> <p>02:136PM 5 A. He said she was a good driver. He didn't</p> <p>6 recommend or not recommend.</p> <p>7 Q. Just when asked to compare them he chose Dan?</p> <p>8 A. Correct.</p> <p>9 Q. So he didn't make any statement of, you know,</p> <p>02:136PM 10 we should not hire her?</p> <p>11 A. No, absolutely not.</p> <p>12 Q. And the things he brought up that separated Dan</p> <p>13 from Shotsay were comfort, confidence, and driving</p> <p>14 faster?</p> <p>02:136PM 15 A. Yes.</p> <p>16 Q. Was there anything else that you can remember?</p> <p>17 A. No.</p> <p>18 Q. And what did you do after you had that</p> <p>19 conversation with Bill Smith?</p> <p>02:136PM 20 A. Reviewed their paperwork. I believe I told</p> <p>21 both of them that I would be getting back to them later</p> <p>22 and reviewed their paperwork. And based on Bill's</p> <p>23 recommendation, and the applicable experience, I went</p> <p>24 with Mr. Smith's recommendation that Mr. Tullis be hired.</p> <p>02:137PM 25 Q. The paperwork that you're talking about</p> <p style="text-align: right;">Alaska Stenotype Reporters 38</p>	<p>1 don't recall.</p> <p>2 Q. Did you believe at that time that you would --</p> <p>3 on that day when you were looking over their paperwork,</p> <p>4 was it in your mind that you needed to hire somebody now,</p> <p>02:138PM 5 or was the idea that you would be hiring one or two or</p> <p>6 maybe even three people later?</p> <p>7 A. I believe it was sometime in the near future.</p> <p>8 Q. And after you made your decision, what did you</p> <p>9 do?</p> <p>02:139PM 10 A. Mr. Monfrey and I talked. And it was at that</p> <p>11 time that he decided not to hire anybody that day or</p> <p>12 probably that week.</p> <p>13 Q. Why did he make that decision?</p> <p>14 A. Because of Dan Tullis.</p> <p>02:139PM 15 Q. What did you speak about when you spoke with</p> <p>16 Mr. Monfrey?</p> <p>17 A. I told him that we had had two drivers in that</p> <p>18 day, and that this was their experience, and that this</p> <p>19 was Mr. Smith's recommendation, which I agreed to.</p> <p>02:140PM 20 Q. And was Mr. Monfrey also looking to hire just</p> <p>21 one person who had won out in the hiring call?</p> <p>22 A. I don't recall.</p> <p>23 Q. But you do you recall saying, "I would</p> <p>24 recommend Dan over Shotsay?"</p> <p>02:140PM 25 A. If we were hiring one driver, yes.</p> <p style="text-align: right;">Alaska Stenotype Reporters 40</p>

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<p>1 Q. Was there a discussion about the fact that 2 Shotsay is a woman? 3 A. No. 4 Q. Was that unusual? 02:40PM 5 A. No. 6 Q. Do you have any women drivers that come? 7 A. No. 8 Q. So -- but nobody said, "Hey, it's interesting 9 we have a woman today?" 02:40PM 10 A. No. We just look at the qualifications. We 11 don't care whether they're male or female. 12 Q. So you spoke with Mr. Monfrey, and you 13 suggested -- you recommended Dan. And then right in that 14 conversation Mr. Monfrey said, "We're not going to hire 02:41PM 15 anyone anyway?" 16 A. I believe so. 17 Q. And how did he tell you to proceed at that 18 point? 19 A. I don't know if he -- I think he told me that 02:41PM 20 we would close the call until we found out what some 21 unknowns would be -- were going to be -- what the 22 outcomes were going to be. 23 Q. And then what did you do after that? 24 A. Went back to my work. 02:41PM 25 Q. And what did you tell -- did you contact either Alaska Stenotype Reporters 41</p>	<p>1 Q. Did you make those telephone calls to Dan and 2 Shotsay the same day of the test? 3 A. I don't believe so. I think it was the day 4 after. 02:42PM 5 Q. So the calls were probably the day after. And 6 then the call -- the open call was closed either the day 7 after the test or perhaps the -- 8 A. The day after. 9 Q. The day after that? 02:43PM 10 A. Correct. 11 Q. So at that point, you just went about your 12 business? 13 A. Correct. 14 Q. Thinking that there was going to be no hire? 02:43PM 15 A. At that time, correct. 16 Q. And did that ever change? 17 A. Yes, it changed a couple of weeks later when we 18 called. Mr. Monfrey wanted to find out if it was okay 19 with the union hall if we called Mr. Tullis to hire him. 02:43PM 20 Q. And why would Mr. Monfrey need to call the 21 union hall to ask permission to do that? 22 A. Because when normally, when a call is closed 23 that's it. Either you have hired or you haven't hired. 24 So this was an unusual circumstance where we knew since 02:44PM 25 they might be there later, so we kind of put Dan on Alaska Stenotype Reporters 43</p>
<p>1 Dan or Shotsay or Bill? 2 A. I believe I called both of them and told them 3 that we were not hiring at that time -- or hiring either 4 one of them at that time. 02:41PM 5 Q. Do you remember -- and these were phone calls, 6 right? 7 A. Correct. 8 Q. Do you remember what you specifically told 9 Shotsay on the telephone? 02:41PM 10 A. Not specifically, but just that we were not 11 going to hire at that time. 12 Q. Did you make it clear that you might be hiring 13 in the future, or did it sound more definite like, we're 14 not hiring you? 02:42PM 15 A. I don't believe I made it definite sounding 16 either way. It's just that at that time we were not 17 hiring anyway. 18 Q. And did you give her any reason? 19 A. No. 02:42PM 20 Q. And what did you say to Dan? 21 A. The same thing. 22 Q. And at that point, was the open call at the 23 union closed? 24 A. I don't know if it was done that day or that 02:42PM 25 afternoon, but it was right in that area. Alaska Stenotype Reporters 42</p>	<p>1 reserve to when the time was needed. 2 Q. Who did you tell you put Dan on reserve? 3 A. I don't know that I told anybody specifically. 4 It was just something that Frank and I had discussed that 02:44PM 5 Mr. Tullis would be a good candidate. 6 Q. Did you discuss that the day of the driver's 7 tests? 8 A. Possibly. I don't recall. 9 Q. But the call was closed and therefore, you knew 02:44PM 10 you would sort of be going around the rules that are 11 normally set out, and that's why Mr. Monfrey called? 12 A. Correct. 13 Q. And what did the union say? 14 A. They say that was fine, that you go ahead and 02:44PM 15 hire Mr. Tullis. 16 Q. And when did you hire Mr. Tullis, or did you? 17 A. Yes, we did and it was mid October. 18 Q. And did you consider hiring Shotsay when you 19 decided that you needed another driver? 02:44PM 20 A. Not at that time. 21 Q. And why not? 22 A. Because a few days after we told the union hall 23 and Shotsay that we were not hiring her, they put 24 political pressure to hire her anyway, even though he did 02:45PM 25 not want to at that time. Alaska Stenotype Reporters 44</p>

<p>1 Q. So the union was putting pressure on United 2 Freight to hire her? 3 A. Correct. 4 Q. And that was the reason that you didn't hire 02:45PM 5 her in mid October when you needed -- 6 A. He felt he was being pressured on hiring and he 7 was not in agreement with that. 8 Q. So he didn't hire her? 9 A. Correct. 02:45PM 10 Q. Because of the pressure from the union? 11 A. Correct. 12 Q. Had the union filed a grievance? 13 A. I believe the grievance was filed after 14 Mr. Tullis was hired. 02:45PM 15 Q. But you and Mr. Monfrey were both aware that 16 there were problems brewing? 17 A. Yes. 18 Q. At the union? 19 A. Yes. 02:46PM 20 Q. After the driver's test and before Tullis was 21 hired? 22 A. Yes. 23 Q. Is it your opinion that you would have ever 24 considered hiring Shotsay again? 02:46PM 25 A. There was no reason why we wouldn't have had</p> <p style="text-align: right;">Alaska Stenotype Reporters 45</p>	<p>1 A. No. 2 Q. Now, just to clarify, you mentioned that on the 3 day of the tests, you and Mr. Monfrey decided -- 4 Mr. Monfrey decided not to hire anyone? 02:46PM 5 A. Correct. 6 Q. And the call was closed? 7 A. Correct. 8 Q. And was the call closed? When the call was 9 closed, that meant it was closed for both Shotsay and 10 Dan? 02:46PM 11 A. Correct. 12 Q. But you were, in your mind, keeping it open for 13 Dan? 14 A. Correct. 02:46PM 15 Q. And why only one? 16 A. Because we knew that Dan had the -- he had 17 worked for a competitor. He had the port experience. We 18 felt he would be a very good candidate. Shotsay did not 19 have the hostling experience around Anchorage, and she 02:46PM 20 did not have the port experience. 21 Q. Okay. So your decision initially not to hire 22 her was based on comfort, confidence and Dan driving 23 faster? 24 A. And the experience. 02:46PM 25 Q. Okay. And the experience?</p> <p style="text-align: right;">Alaska Stenotype Reporters 47</p>
<p>1 she come out at time when she was better qualified than 2 other drivers that we talked to. 3 Q. Do you know who at the union was putting 4 pressure on? 02:46PM 5 A. I believe it was Mr. Killian. 6 Q. And how was he putting pressure on? 7 A. I believe it was a phone call to Mr. Monfrey 8 saying that she was a well-qualified driver, had lots of 9 experience, and that she was a friend of the system, and 02:47PM 10 that he would greatly appreciate her being hired. 11 Q. She was a friend of the union? 12 A. Of certain people in the union. 13 Q. So it was all almost as if Killian was asking 14 for a personal favor? 02:47PM 15 A. Correct. 16 Q. So when you and Mr. Monfrey -- did Mr. Monfrey 17 discuss these calls with you that he received from 18 Mr. Killian? 19 A. Briefly, yes. 02:47PM 20 Q. And what was his opinion of it? 21 A. He was very upset. He didn't like being told 22 that he had to hire somebody. And that was the 23 impression he was getting. 24 Q. Was it Mr. Monfrey's opinion that Shotsay was 02:47PM 25 not qualified?</p> <p style="text-align: right;">Alaska Stenotype Reporters 46</p>	<p>1 A. Correct. All those factors came into play. 2 Q. I'm only asking because you didn't mention the 3 experience previously when I asked what factors you 4 relied on when you decided -- 02:49PM 5 A. I believe I did because I said we prefer that 6 the minimum three, and preferably five years 7 tractor/driving experience. 8 Q. And how many years did Shotsay have? 9 A. I believe it was twenty-five or in that area. 02:49PM 10 Q. So she had the experience? 11 A. She had the driving background. She did not 12 have the experience applicable to our business. 13 Q. And that would be port knowledge? 14 A. The port knowledge and the Anchorage area 02:49PM 15 knowledge and the hostler. 16 Q. She didn't have hostling knowledge? 17 A. Not in Anchorage. I believe it was in the 18 Lower 48 she had some, and I'm not sure how much. 19 Q. But at that time -- on the day of the exam, you 02:50PM 20 still believed she was qualified for the position? 21 A. She was qualified as far as driving, yes -- as, 22 as far as her driving experience. 23 Q. And if there had been two positions open that 24 day, would she have been hired? 02:50PM 25 A. Very good possibility.</p> <p style="text-align: right;">Alaska Stenotype Reporters 48</p>

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<p>1 service. I don't recall without looking more closely,</p> <p>2 but I know that normally, when it is not meeting</p> <p>3 expectations it's because they're not performing up to</p> <p>4 our expectations.</p> <p>04:09PM 5 I mean, we expect our drivers to be able to do</p> <p>6 a certain number of loads, which I don't know which</p> <p>7 number it goes by each day.</p> <p>8 Q. There's quota basically?</p> <p>9 A. I don't know that it's a quota, but it's what</p> <p>04:09PM 10 we expect them to be able to do.</p> <p>11 Q. And you still work at United Freight, correct?</p> <p>12 A. Yes, I do.</p> <p>13 Q. And Mr. Monfrey talked about this case?</p> <p>14 A. Yes.</p> <p>04:09PM 15 Q. When is the last time you talked about it?</p> <p>16 A. This morning.</p> <p>17 Q. What time?</p> <p>18 A. Around 8 o'clock.</p> <p>19 Q. And what was discussed?</p> <p>04:09PM 20 A. He filled me in on some of the discussions</p> <p>21 yesterday during the depositions.</p> <p>22 Q. So he told you what was said in the</p> <p>23 depositions?</p> <p>24 A. Not word by word, but he gave me an overview of</p> <p>04:10PM 25 it.</p> <p style="text-align: right;">Alaska Stenotype Reporters 97</p>	<p>1 MR. LEGACKI: Can we have five minutes, please?</p> <p>2 Off record.</p> <p>3 (Off record.)</p> <p>4 BY MR. LEGACKI:</p> <p>04:11PM 5 Q. You -- do you have a specific recollection of</p> <p>6 Mr. Monfrey coming to you and telling you about that</p> <p>7 phone call?</p> <p>8 A. Not specific, no.</p> <p>9 Q. Did you discuss this recently with Mr. Monfrey</p> <p>04:12PM 10 about this phone call?</p> <p>11 A. I'm sorry?</p> <p>12 Q. Did you recently discuss this thing with</p> <p>13 Mr. Monfrey about the phone call?</p> <p>14 A. It's come up in some of the meetings with some</p> <p>04:12PM 15 of the attorneys, but not specifically him and I.</p> <p>16 Q. So you specifically recall it was Mr. Killian</p> <p>17 putting pressure on Mr. Monfrey?</p> <p>18 A. That's the best of my recollection, yes.</p> <p>19 Q. Didn't Mr. Monfrey say that Mr. Jones was going</p> <p>04:12PM 20 to make it go away?</p> <p>21 MR. EVANS: Objection; lack of foundation,</p> <p>22 facts not in evidence.</p> <p>23 BY MR. LEGACKI:</p> <p>24 Q. Did Mr. Monfrey ever tell you that Mr. Jones</p> <p>04:12PM 25 was going to make this grievance go away?</p> <p style="text-align: right;">Alaska Stenotype Reporters 99</p>
<p>1 Q. And before that, when is the last time you</p> <p>2 talked?</p> <p>3 A. Tuesday when we were here in this office.</p> <p>4 Q. And that's when Bill Smith was here? Was he in</p> <p>04:10PM 5 that meeting?</p> <p>6 A. He was here for the first hour or so, and then</p> <p>7 he left and then it was Mr. Monfrey and myself and Wendy</p> <p>8 and Bill Evans.</p> <p>9 Q. During the time period Mr. Smith was in the</p> <p>04:10PM 10 meeting, can you tell me what was discussed?</p> <p>11 A. His road test of both Shotsay and Dan Tullis,</p> <p>12 and what his opinion was, where they went, how long it</p> <p>13 took, to the overview of what he felt about both drivers.</p> <p>14 Q. Anything else?</p> <p>04:10PM 15 A. Not that I recall.</p> <p>16 Q. And there was a meeting before with Mr. Smith.</p> <p>17 I think it was like the week before you said.</p> <p>18 A. A week before.</p> <p>19 Q. Could you tell me about that meeting.</p> <p>04:11PM 20 A. That was just the initial interview with</p> <p>21 Mr. Evans and Wendy to talk to Bill and find out his part</p> <p>22 of this -- the road test and what he did.</p> <p>23 Q. Do you recall what else was said?</p> <p>24 A. Basically the same thing. He just gave them an</p> <p>04:11PM 25 overview.</p> <p style="text-align: right;">Alaska Stenotype Reporters 98</p>	<p>1 A. He didn't say he was going to make this go</p> <p>2 away. I believe he said that he thought that there was</p> <p>3 no substance to it and that it would go away.</p> <p>4 Q. There was no substance to it?</p> <p>04:13PM 5 A. I'm not sure those were the exact words, but</p> <p>6 something to that effect.</p> <p>7 Q. When did Mr. Monfrey tell you that?</p> <p>8 A. I don't recall.</p> <p>9 Q. Is that before or after the phone call from</p> <p>04:13PM 10 Mr. Killian?</p> <p>11 A. I believe it was after because the grievance</p> <p>12 wasn't filed until later. And I assume that's what</p> <p>13 you're referring to when you say, "this go away," you're</p> <p>14 talking about the grievance that was filed with the</p> <p>04:13PM 15 union.</p> <p>16 Q. Were you aware that the union wanted to make a</p> <p>17 deal with Mr. Monfrey to have Shotsay hired?</p> <p>18 A. After Mr. Tullis was hired, yes.</p> <p>19 Q. Can you tell me about that?</p> <p>04:13PM 20 A. They wanted us to hire Shotsay, put her above</p> <p>21 Mr. Tullis in seniority, give her no probation and give</p> <p>22 her back pay. I know of those things.</p> <p>23 Q. Why was that rejected?</p> <p>24 A. Because it's unfair. We hired -- we did not</p> <p>04:14PM 25 not hire Shotsay because she was a woman. We did not</p> <p style="text-align: right;">Alaska Stenotype Reporters 100</p>

<p>1 hire her because she did not have the qualifications that</p> <p>2 we were looking for.</p> <p>3 Q. We know you hire people when they don't have</p> <p>4 the qualifications, right? We've already established</p> <p>04:24PM 5 that, correct?</p> <p>6 A. When we have no other applicants available that</p> <p>7 is correct.</p> <p>8 Q. Well, Mr. Dixon didn't have the qualifications?</p> <p>9 A. Mr. Dixon was a complete different case. He</p> <p>04:24PM 10 was a personal friend of Mr. Monfrey's.</p> <p>11 Q. But we've already established that even though</p> <p>12 somebody does not have the qualifications they can still</p> <p>13 be an excellent employee, correct?</p> <p>14 A. Yes, that is true.</p> <p>04:24PM 15 Q. Do you know Perry Lemons?</p> <p>16 A. Yes, he's one of our current drivers.</p> <p>17 Q. And do you remember his experience?</p> <p>18 A. No.</p> <p>19 Q. How about Craig Merrick?</p> <p>04:25PM 20 A. He is -- he was hired and terminated.</p> <p>21 Q. Why was he hired?</p> <p>22 A. Why was he hired?</p> <p>23 Q. Yes.</p> <p>24 A. Because he was the best applicant when we were</p> <p>04:25PM 25 looking for somebody at that time.</p> <p style="text-align: right;">Alaska Stenotype Reporters 101</p>	<p>1 Q. And why was he terminated, by the way?</p> <p>2 A. I don't recall. You would have to look at the</p> <p>3 file.</p> <p>4 Q. Now, Mr. Merrick only had three months</p> <p>04:27PM 5 experience in Alaska; is that correct?</p> <p>6 A. I don't know without looking at it.</p> <p>7 (Exhibit 34 marked.)</p> <p>8 BY MR. LEGACKI:</p> <p>9 Q. Would you take a look at that for me, please.</p> <p>04:29PM 10 A. Okay.</p> <p>11 Q. What does this -- does he meet the requirements</p> <p>12 that dispatch has requested?</p> <p>13 A. He meets the requirements. It's not as much as</p> <p>14 we like, but what you don't seem to understand is that we</p> <p>04:30PM 15 have to deal with who we get from the union hall. We</p> <p>16 have to pick the best person that we feel is right for</p> <p>17 the job at that time. It doesn't always work out.</p> <p>18 Sometimes it works out and sometimes it doesn't.</p> <p>19 In this case he had worked for Carlile for</p> <p>04:30PM 20 three months, which does the local hostling. He had</p> <p>21 worked in the port and he had hostling experience.</p> <p>22 Q. He worked in the port? Where did you see that?</p> <p>23 A. But not worked in port, but knew the port.</p> <p>24 Q. Near the port?</p> <p>04:30PM 25 A. No, he knew the Anchorage Port.</p> <p style="text-align: right;">Alaska Stenotype Reporters 103</p>
<p>1 Q. Why would Craig Merrick be hired over Shotsay?</p> <p>2 A. Because Shotsay did not apply for that call.</p> <p>3 Q. Well, if the offer was made, would you have</p> <p>4 hired Shotsay when she was qualified, if she wanted to be</p> <p>04:25PM 5 hired?</p> <p>6 A. Under the union -- under union conditions</p> <p>7 under -- with back pay and higher seniority and no</p> <p>8 probation period, that's how they wanted us to hire</p> <p>9 Shotsay.</p> <p>04:25PM 10 Q. But she had more experience than Mr. Merrick or</p> <p>11 even Mr. Lemons, right?</p> <p>12 A. It wasn't a factor at that time because she did</p> <p>13 not apply at that time.</p> <p>14 Q. Are you saying when Mr. Merrick applied that he</p> <p>04:26PM 15 was the only one from the hall that applied for this job?</p> <p>16 A. I don't recall. I don't believe he was the</p> <p>17 only one.</p> <p>18 Q. Who else? Do you know?</p> <p>19 A. No, I don't.</p> <p>04:26PM 20 Q. Did you put that on the list of your names on</p> <p>21 who got hired and stuff like that?</p> <p>22 A. He was hired so, yes, he would have been on the</p> <p>23 hire list.</p> <p>24 Q. Do you have that?</p> <p>04:26PM 25 A. I don't.</p> <p style="text-align: right;">Alaska Stenotype Reporters 102</p>	<p>1 Q. He knew?</p> <p>2 A. Yes, it says, "Knowledge of Anchorage Port,</p> <p>3 yes."</p> <p>4 Q. How did he -- Carlile doesn't go to the port,</p> <p>04:31PM 5 does it?</p> <p>6 A. Yes, I believe.</p> <p>7 THE WITNESS: Frank, doesn't Carlile go to the</p> <p>8 port?</p> <p>9 BY MR. LEGACKI:</p> <p>04:31PM 10 Q. I'm asking you if you know?</p> <p>11 A. I believe they do.</p> <p>12 Q. And he only worked there for two months?</p> <p>13 A. I have three months. And I don't know which</p> <p>14 one is right. One place I've got two and one place I've</p> <p>04:31PM 15 got three, so I'm not sure.</p> <p>16 Q. Well June and July, right?</p> <p>17 A. Yeah, June '03 to 8-03.</p> <p>18 Q. And he got fired from there?</p> <p>19 A. Yes, for not tying down loads, which we don't</p> <p>04:31PM 20 have to tie down loads very often.</p> <p>21 Q. Okay. Here's a guy who's only been in</p> <p>22 Anchorage for two months. It says he's only worked in</p> <p>23 Anchorage two months?</p> <p>24 A. It appears to be, yes.</p> <p>04:31PM 25 Q. And Shotsay has been here for how many years?</p> <p style="text-align: right;">Alaska Stenotype Reporters 104</p>

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